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83^D CONGRESS
1ST SESSION

H. R. 5420

IN THE HOUSE OF REPRESENTATIVES

MAY 27, 1953

Mr. KEATING (by request) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To amend section 161, title 35, United States Code, relating to the patenting of plants.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That section 161, title 35, United States Code, is hereby
4 amended to read as follows:

5 “SEC. 161. PATENTS FOR PLANTS.—Whoever invents or
6 discovers and asexually reproduces any distinct and new
7 variety of plant, including cultivated sports, mutants, hybrids,
8 and newly found seedlings, other than a tuber-propagated
9 plant or wild variety found in an uncultivated state, may
10 obtain a patent therefor, subject to the conditions and re-
11 quirements of this title.

A BILL

To amend section 161, title 35, United States Code, relating to the patenting of plants.

By Mr. KEATING

MAY 27, 1953

Referred to the Committee on the Judiciary

1 “The provisions of this title relating to patents for
2 inventions shall apply to patents for plants, except as other-
3 wise provided.”

Edward B. Morris, secretary, Federation of Citizens Associations, and Walter J. Bierwagen, president, division 689, Amalgamated Association of Street Electric Railway & Motor Coach Employees of America, AFL; and also favoring, but with certain suggested amendments—Vernon West, D. C. Corporation Counsel, and Robert McLaughlin, Chairman, Robert Weston, member, and Lloyd B. Harrison, special assistant, all of the D. C. PUC.

INTERNATIONAL SUGAR AGREEMENT

Committee on Foreign Relations: Special subcommittee, in executive session, ordered favorably reported to the full committee the International Sugar Agreement (Exec. B, 83d Cong., 2d sess.).

ALASKA BILLS

Committee on Interior and Insular Affairs: Subcommittee on Territories and Insular Affairs held hearings on the following four bills: S. 3037, to provide for the commitment and care of the mentally ill of Alaska; H. R. 1529, providing for development of building materials in Alaska through the removal of volcanic ash from portions of Katmai National Monument, Alaska; H. R. 1568, to authorize each commissioner in Alaska to appoint a deputy commissioner to act for the commissioner; and H. R. 1570, authorizing lease for 55 years of certain public lands in Alaska reserved for educational purposes. Testimony favoring enactment of these bills was received from Gov. B. Frank Heintzleman, of Alaska, Delegate Bartlett, and A. Moco Edwards, Jr., Chief Counsel, Office of Territories, Interior Department.

COMMUNIST INFLUENCES IN LATIN AMERICA

Committee on the Judiciary: Subcommittee on Internal Security held hearings to receive testimony from Spruille Braden, formerly an Assistant Secretary of State and also Ambassador to Cuba, Colombia, and Argentina, and presently the head of the New York City Anticrime Commission. Mr. Braden's testimony was directed to-

ward the attitudes in the State Department as to Communist influences in Latin American countries. Subcommittee recessed subject to call.

TRADE-MARKS

Committee on the Judiciary: Subcommittee on Patents, Trade-Marks, and Copyrights held hearings on S. 2540, to clarify certain language used in the law providing for registration and protection of trade-marks. Testimony generally favoring enactment of the bill, but with certain suggested amendments, was received from Representative Lanham; James F. Hoge, attorney, U. S. Trademark Association; Wallace H. Martin, attorney, NAM; Stewart W. Richards, attorney of New York; Andrew Klein, attorney, American Bar Association; Francis Browne, American Patent Law Association; Charles P. Bauer, New York Patent Law Association; Mrs. Daphne Roberts Leeds, Assistant Commissioner, Patent Office; and John T. Love, Chauncey P. Carter, and Charles R. Allen, all attorneys. Subcommittee recessed subject to call.

SMALL BUSINESS—MILITARY PROCUREMENT

Select Committee on Small Business: Subcommittee on Military Procurement continued hearings with regard to complaints of small business firms as to their dealings with the Government. Testimony today was received from representatives of the Army ordnance department concerning testimony previously given the subcommittee by Edward J. Vagim, of Fresno, Calif., who cited difficulties he had had in dealing with the San Francisco ordnance district office with regard to three specific contracts.

Subcommittee also heard from representatives of the Army Engineers with regard to previous testimony of representatives of the Woolridge Manufacturing Co., Sunnyvale, Calif., which company is a manufacturer of heavy farm and road machinery.

Hearings continue March 31.

House of Representatives

Chamber Action

Bills Introduced: 21 public bills, H. R. 8558-8578, and 4 private bills, H. R. 8579-8582, were introduced.

Page 3625

Bills Reported: Reports were filed as follows:

H. R. 2556, to amend the U. S. Code relative to extradition to foreign territory occupied or controlled by U. S. exclusively or jointly with other nations, amended (H. Rept. 1416);

Ten private bills, H. R. 1465, 3026, 3038, 3131, 3249, 3903, 4236, 4510, 4747, and 4813. (H. Repts. 1417-1426, respectively); and

Conference report on H. R. 5337, to establish an Air Force Academy in the Department of the Air Force (H. Rept. 1427).

Page 3625

Supplemental Appropriations: Passed, by a voice vote, H. R. 8481, the third supplemental appropriation bill for 1954.

Adopted two amendments that increase—

By \$7 million the funds provided for grants to States for unemployment compensation and employment service administration; and

By \$55 million the Office of Education funds for payments to school districts for school-construction entitle-

ments in federally impacted areas under public law 815 (81st Cong., 2d sess.).

This bill, as reported from the Committee on Appropriations, recommended appropriations totaling \$394,521,596, a reduction of \$29,568,900 under the budget estimates.

Pages 3594-3621

Late Reports: The Committee on Appropriations was granted permission to file, by midnight Friday, a report on the independent offices appropriation bill for 1955.

The Committee on Banking and Currency was granted permission to file, by midnight Sunday, a report on H. R. 7839, the housing redevelopment bill.

Pages 3621, 3623

Program for Monday: Adjourned at 4:36 p. m. until Monday, March 29, at 12 o'clock noon, when the House will consider the independent offices appropriation bill for 1955 (general debate only).

Committee Meetings

FARM PROGRAM

Committee on Agriculture: Continued hearings on the administration's proposed long-range farm program today, and heard opposition testimony regarding same from M. W. Thatcher, general manager of the Farmers Union Grain Terminal Association, St. Paul, Minn. Mr. Thatcher is also president of the National Federation of Grain Cooperatives. He stated that the proposed farm program is deflationary, and would result in lowering farm income and reduce the take-home pay of people on the land. He recommended that present farm programs be allowed to continue for at least 2 years, during which time he believed that competent people should be able to work out an adequate program in the interests of consumers, farmers, and taxpayers. Recessed until tomorrow when the scheduled witnesses are representatives from the U. S. Chamber of Commerce and the Missouri Farmers Association.

HOUSING

Committee on Banking and Currency: Continued executive action on title I of H. R. 7839, the housing redevelopment bill. Recessed until tomorrow morning.

TAFT-HARTLEY LAW

Committee on Education and Labor: During today's consideration of proposed amendments to the Taft-Hartley Act, the committee voted (17 to 9) against any changes being made in section 9 (b) (3), which relates to the status of plant guards and similar industrial protective personnel. Began discussion of the so-called free-speech section (sec. 8 (c)), and will resume on same topic tomorrow.

EUROPE

Committee on Foreign Affairs: The Assistant Secretary of State for European Affairs, Livingston T. Mer-

chant, met for executive discussion today with the Subcommittee on Europe. Recessed subject to call of the Chair.

IDAHO PROJECT

Committee on Irrigation and Reclamation: The Subcommittee on Irrigation and Reclamation received testimony today urging favorable consideration of H. R. 5499, relating to Federal authorization of construction, maintenance, and operation of Michaud Flats project for irrigation in the State of Idaho. No final action was taken by the subcommittee.

The supporting witnesses were Representative Budge, author of the measure; H. T. Nelson, director, region 1, Bureau of Reclamation, Boise, Idaho; O. M. Brown, planning engineer, Bureau of Reclamation, Boise, Idaho; State Senator Ward W. Meadows, representing Falls Irrigation District; William Hess, representing Falls Irrigation District and city of American Falls; LaVerne C. Johnson, representing city of Pocatello, Idaho; R. P. Parry, representing various irrigation districts and canal companies downstream from American Falls; Frank W. Parker, tribal council, Fort Hall Indian Tribe; and William L. Miller, Chief, Branch of Irrigation, Bureau of Indian Affairs.

Adjourned subject to call.

HEALTH, REINSURANCE

Committee on Interstate and Foreign Commerce: Continued public hearings on H. R. 8356, to encourage more extensive use of the voluntary prepayment method in the provision of personal health services. Testifying in connection with the views of the Department of Health, Education, and Welfare was Assistant Secretary Roswell B. Perkins, who accompanied Secretary Hobby at her appearance during yesterday's opening session on the proposal. Recessed until tomorrow morning when the scheduled witnesses are representatives of the U. S. Chamber of Commerce and the Missouri Farmers Association.

PATENTS

Committee on the Judiciary: Ordered reported to the House H. R. 5420, as amended, to amend title 35, U. S. Code, relating to the patenting of plants.

FEDERAL EMPLOYEE PAY INCREASES

Committee on Post Office and Civil Service: Testimony was received today from the following Members of Congress regarding proposed pay raises for Federal employees—Representatives Beamer, Barrett, Bennett of Florida, Buchanan, Buckley, Dollinger, Dorn, Feighan, Gary, Gathings, Hiestand, Hill, Lantaff, McMillan, Madden, Merrow, Moulder, O'Hara of Illinois, O'Neill, Pfost, Schenck, and Wier.

The committee also heard Frank E. Russell, president of the National Star Route Mail Carriers Association, who suggested an amendment, to whatever proposal

PATENTING OF PLANTS

MARCH 31, 1954.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

MR. CRUMPACKER, from the Committee on the Judiciary, submitted the following

REPORT

[To accompany H. R. 5420]

The Committee on the Judiciary to whom was referred the bill (H. R. 5420) to amend section 161, title 35, United States Code, relating to the patenting of plants, having considered the same, report favorably thereon with amendments and recommend that the bill do pass.

The amendments are as follows:

1. Page 1, line 8, strike out "tuber-propagated" and insert "tuberpropagated".
2. Page 1, line 9, strike out "wild variety" and insert in lieu thereof "a plant".

PURPOSE OF THE AMENDMENTS

Both of the amendments are merely perfecting ones, the first to correct misspelling and the second for purposes of clarification.

PURPOSE OF THE BILL

The purpose of the bill is to amend section 161, title 35, United States Code, relating to the patenting of plants, in order to indicate clearly that plant seedlings discovered, propagated asexually and proved to have new characteristics distinct from other known plants, are patentable under the patent laws of the United States.

GENERAL STATEMENT

The bill provides that whoever invents or discovers and asexually reproduces any distinct and new variety of plant, including cultivated sports, mutants, hybrids, and newly found seedlings, other than a tuberpropagated plant or a plant found in an uncultivated state, may

obtain a patent therefor. Under the present Plant Patent Act, seedling plants developed by chance, with no attention or effort by the owner, are not subject to patent.

This bill is made necessary because of a change in the ruling of the Patent Office on the so-called chance seedlings. For many years, the Patent Office considered these chance seedlings to be patentable but about 4 years ago that Office reversed its position and ruled that Congress did not intend that these plants be embraced within the plant patent amendments. Thus, the enactment of this bill will indicate clearly that plant seedlings discovered, propagated asexually, and proved to have new characteristics distinct from other known plants, are patentable under the patent laws of the United States.

It is the opinion of the committee that the enactment of this bill, as amended, will not only remove any doubt that the legislative intent of the Congress when it enacted the plant patent amendments clearly intended that sports, mutants, hybrids, and seedlings, discovered by persons engaged in agriculture or horticulture, should be patentable, but it would also strengthen the original purpose for the enactment of a plant patent act by enhancing the incentive for achievement in plant breeding, gardening, and horticulture.

Attached hereto and made part of this report are communications from the Department of Agriculture and the Department of Commerce relating to the proposed bill.

DEPARTMENT OF AGRICULTURE,
Washington 25, D. C., October 5, 1953.

HON. CHAUNCEY W. REED,
*Chairman, Committee on the Judiciary,
House of Representatives, Washington, D. C.*

DEAR MR. REED: This is in reply to your request of June 15, 1953, for a report on H. R. 5420, a bill to amend section 161, title 35, United States Code, relating to the patenting of plants.

The bill provides that whoever invents or discovers and asexually reproduces any distinct and new variety of plant, including cultivated sports, mutants, hybrids, and newly found seedlings, other than a tuber-propagated plant or wild variety found in an uncultivated state, may obtain a patent therefor. Under the present Plant Patent Act, seedling plants developed by chance, with no attention or effort by the owner, are not subject to patent.

The wording of the amendment appears to be ambiguous in certain respects. If John Doe discovers a mutant in an orchard owned and operated by another, who is entitled to the patent—the discoverer of the mutation or the owner of the orchard in which it occurred? It is suggested that the bill be amended by inserting a limitation that patents may be obtained only with respect to new varieties which the inventor owns or for the reproduction of which he has the owner's permission. The reason for this amendment is that trees and similar plants constitute a part of the real estate on which they grow. It is intended that patenting be authorized only in those cases where new varieties are owned by the inventor or discoverer or for the reproduction of which he has the owner's permission.

There is also ambiguity in the wording in line 9, "a wild variety found in an uncultivated state." It is suggested that this phrase be amended by substituting the word "plant" for "wild variety," and that there be inserted after the words "uncultivated state" some such phrase as "or in a location where no effort has been made to promote the growth of the plant. * * *"

The first paragraph of the section as amended would thus read (proposed U. S. Department of Agriculture language italicized):

"SECTION 161. PATENTS FOR PLANTS

"Whoever invents or discovers and asexually reproduces any distinct and new variety of plant *which he owns or for the reproduction of which he has the owner's permission (such plants to include [including] cultivated sports, mutants, hybrids, and newly found seedlings), other than a tuber-propagated plant or [wild variety]*

a plant found in an uncultivated state or in a location where no effort has been made to promote the growth of the plant, may obtain a patent therefor, subject to the conditions and requirements of this title."

The Plant Patent Act was originally passed for the purpose of increasing the incentive for achievement in plant breeding, gardening, and horticulture. The bill, if amended as suggested above, would further increase those incentives by authorizing the patenting of plants discovered and propagated in orchards and gardens.

This Department recommends passage of the bill if amended as suggested above.

The Bureau of the Budget advises that, from the standpoint of the program of the President, there is no objection to the submission of this report.

Sincerely,

TRUE D. MORSE,
Acting Secretary.

AUGUST 26, 1953.

HON. CHAUNCEY W. REED,
*Chairman, Committee on the Judiciary,
House of Representatives, Washington, D. C.*

DEAR MR. CHAIRMAN: This letter is in reply to your request of June 15, 1953, for the views of this Department with respect to H. R. 5420, a bill to amend section 161, title 35, United States Code, relating to the patenting of plants.

This Department recommends against enactment of H. R. 5420 for the reasons set forth in the attached memorandum dated July 20, 1953, to the General Counsel of the Department from the Commissioner of Patents.

We have been advised by the Bureau of the Budget that it would interpose no objection to the submission of this letter.

If we can be of further assistance in this matter, please call on us.

Sincerely yours,

ROBERT B. MURRAY,
Acting Secretary of Commerce.

DEPARTMENT OF COMMERCE,
UNITED STATES PATENT OFFICE,
Washington, July 20, 1953.

MEMORANDUM RE H. R. 5420

To: The General Counsel.
From: Patent Office.

This bill proposes to amend section 161, title 35, United States Code, by adding "cultivated sports, mutants, hybrids and newly found seedlings other than a * * * wild variety found in an uncultivated state" to the plants within the scope of the section providing for plant patents. The language used appears to contemplate the grant of a patent to one who has merely found a plant not previously known and has contributed nothing to producing it, provided it is found in a cultivated state.

In the case of *Thompson et al. v. Boisselier et al.* (114 U. S. 1), it was held by the Supreme Court of the United States that the constitutional provision relating to patents requires that "The beneficiary must be an inventor, and he must have made a discovery" and that "It is not enough that a thing shall be new in the sense that in the shape or form in which it is produced it shall not have been before known, and that it shall be useful, but it must under the Constitution and the statute amount to an invention or discovery."

The question of constitutionality was carefully considered by the Congress in connection with the original plant patent law, and is discussed in substantially the same way in the reports to accompany H. R. 11372 (H. Rept. 1129, 71st Cong.) and S. 4015 (S. Rept. 315, 71st Cong.), 71st Congress. While a portion of that discussion seems to indicate that the committees were of the opinion that the grant of a patent solely on the basis of finding a new plant would not exceed the constitutional authority, the primary basis for holding the law then under consideration to be constitutional was that there is a "clear and logical distinction" between the finding of a mineral which "is created wholly by nature unassisted by man" and a "plant discovery resulting from cultivation" which cannot "be reproduced by nature unaided by man." The reports also point out, in support of constitutionality, that "the committee has, by its amendment in striking out the patenting of 'newly found' varieties of plants, eliminated from the scope of the

bill those wild varieties discovered by the plant explorer or other person who has in no way engaged either in plant cultivation or care and who has in no other way facilitated nature in the creation of a new and desirable variety."

From the language used in the reports it seems clear that serious doubts were entertained by the committees as to whether a patent could properly be granted merely on the basis of finding a new plant. It has been consistently held in other fields that the mere discovery of an article or composition which is old in nature cannot in itself form the basis for a patent.

It is possible that the references to cultivation in the present bill might be urged as distinguishing from a pure chance find. However, there is nothing in the language used which would require the prospective patentee to have made any contribution whatever to the producing of the plant, or even to its cultivation. Apparently he might have discovered it in a neighbor's garden. Accordingly, so far as constitutionality is concerned, the language of the bill does not differ materially from the inclusion of any newly discovered plant already existing in nature.

Apart from any possible bearing on the question of constitutionality, there seems to be no good reason for limiting patentable discoveries of plants to those made in cultivated areas. On the contrary, it would seem that the progress of science and the useful arts would be better promoted by rewarding one who has gone to the trouble and expense of locating and making available a new plant found in a remote area, than one who has merely accidentally discovered such a plant in his own or another's garden.

It would appear, moreover, that the language of the bill would give rise to difficult questions of interpretation. It is not certain whether the new plant itself must be the subject of cultivation, or must merely be found in a cultivated area. Apparently the question of patentability might sometimes be reduced to one as to which side of a fence the plant was found on. Questions of inventorship and ownership may also arise.

It is thought that the adoption of the bill in its present form would not be advisable, but if the patenting of newly found plants is regarded as constitutional and in the interest of public policy, the Patent Office would interpose no objection to an appropriately drawn bill on the subject.

ROBERT C. WATSON, *Commissioner*.

CHANGES IN EXISTING LAW

In compliance with clause 3 of rule XIII of the House of Representatives, there is printed below in roman type without brackets existing law in which no change is proposed by enactment of the bill here reported; present provisions proposed to be stricken are enclosed in black brackets; and new provisions proposed to be inserted are shown in italic:

SECTION 161 OF TITLE 35, UNITED STATES CODE

§ 161. Patents for plants

Whoever invents or discovers and asexually reproduces any distinct and new variety of plant, *including cultivated sports, mutants, hybrids, and newly found seedlings*, other than a tuberpropagated plant[**],** or a plant found in an uncultivated state, may obtain a patent therefor, subject to the conditions and requirements of this title.

The provisions of this title relating to patents for inventions shall apply to patents for plants, except as otherwise provided.



H. R. 5420

[Report No. 1455]

IN THE HOUSE OF REPRESENTATIVES

MAY 27, 1953

Mr. KEATING (by request) introduced the following bill; which was referred to the Committee on the Judiciary

MARCH 31, 1954

Reported with amendments, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Omit the part struck through and insert the part printed in italic]

A BILL

To amend section 161, title 35, United States Code, relating to the patenting of plants.

- 1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That section 161, title 35, United States Code, is hereby
4 amended to read as follows:
5 “SEC. 161. PATENTS FOR PLANTS.—Whoever invents or
6 discovers and asexually reproduces any distinct and new
7 variety of plant, including cultivated sports, mutants, hybrids,
8 and newly found seedlings, other than a ~~tuber propagated~~
9 *tuberpropagated* plant or ~~wild variety~~ *a plant* found in an
10 uncultivated state, may obtain a patent therefor, subject to
11 the conditions and requirements of this title.

83^d CONGRESS
2^d Session

H. R. 5420

[Report No. 1455]

A BILL

To amend section 161, title 35, United States Code, relating to the patenting of plants.

By Mr. KEATING

MAY 27, 1953

Referred to the Committee on the Judiciary

MARCH 31, 1954

Reported with amendments, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

1 "The provisions of this title relating to patents for
2 inventions shall apply to patents for plants, except as other-
3 wise provided."

Digest of CONGRESSIONAL PROCEEDINGS

OF INTEREST TO THE DEPARTMENT OF AGRICULTURE

OFFICE OF BUDGET AND FINANCE
(For Department Staff Only)

Issued April 6, 1954
For actions of April 5, 1954
83rd-2nd, No. 62

CONTENTS

Accounting.....26	Food distribution.....23	Pesticide chemicals.....1
Alaska.....29	Food standards.....13	Price supports....16,30,32
Appropriations.....6,7	Hawaii.....29	Reclamation.....7
Civil defense.....5	Health.....31	Research.....3,12
Crime investigations....15	Housing, farm.....24	Road authorizations..10,33
Crop insurance.....21	Incentive awards.....4	Statehood.....29
Dairy industry and trade 16,23,30	Labor, farm.....6	Sugar.....8,11
Disbursing.....14	Lands, transfer.....12	Trade, foreign..9,18,25,28
Electrification.....7,27	Legislative program....19	Tuna imports.....9
Farm policy.....17	Loans, farm.....2,20	Tung oil.....28
	Personnel.....4,22	

HIGHLIGHTS: House passed bills to: Authorize land banks to purchase FPMC assets; liberalize plant patenting law; regulate pesticide chemicals on food; establish single incentive-awards program. House debated Interior appropriation bill. House agreed to conference report on Mexican farm-labor appropriation measure. Rep. Willis urged increased mainland cane-sugar quota. Senate debated road-authorization bill. Sen. Aiken introduced bills on emergency farm loans, crop-insurance financing, and tenant-loan encouragement. Senate passed bills to: Authorize Attorney General to conduct certain crime investigations; remove limitations on Miles City research-land transfer. Sen. Ellender recommended increased mainland cane-sugar quota.

HOUSE

1. PESTICIDE CHEMICALS. Passed as reported H. R. 7125, to prohibit the use of pesticide chemicals as additives to raw agricultural commodities unless the quantity does not exceed the limits of tolerance as established by HEW or is exempted from the requirement of tolerance by the Secretary of HEW, and to provide for regulations for classifications of pesticide chemicals according to the degree of tolerance, etc. (pp. 4334-6).

2. FARM LOANS. Passed without amendment H. R. 6711, to further amend section 13 of the Federal Farm Loan Act so as to authorize the Federal land banks to make a bulk purchase of certain remaining assets of the Federal Farm Mortgage Corporation (pp. 4336-7).

Received from this Department a proposed bill to eliminate the requirement that economic disaster loans be restricted to areas designated by the President and to make additional funds available for economic emergency loans; to Agriculture Committee (p. 4370).

3. RESEARCH. Passed as reported H. R. 5420, which provides that whoever invents or discovers and asexually reproduces any distinct and new variety of plant, including cultivated sports, mutants, hybrids, and newly found seedlings (other

than a tuberpropagated plant or a plant found in an uncultivated state) may obtain a patent therefor under the Plant Patent Act (p. 4337).

Passed without amendment S. 1456, to authorize the Gorgas Memorial Institute to accept funds from Latin American governments for its maintenance (p. 4332). This bill will now be sent to the President.

4. PERSONNEL. Passed with amendments H. R. 7774, the proposed "Federal Employees Incentive Awards Act of 1954" (pp. 4328-31). The bill provides as follows: Imposes a duty on each administrator to establish an incentive awards program for his department or agency in accordance with standards and regulations of the Civil Service Commission. Places the responsibility on the Commission to inspect these programs and to request the administrator to revise or modify his plan if necessary. Authorizes the Commission to establish an incentive awards office, appoint a director thereof, and delegate to him whatever duties it deems necessary. Establishes the line of administrative authority from the director of the incentive awards office directly to the Executive Director of the Commission. Authorizes departments to pay cash awards and expenses for honorary recognition from their general appropriations; and permits a number of different departments who have all benefited from a single suggestion to share in the award granted therefor. Places a limitation of \$5,000 on an individual cash award which an administrator can grant under his own authority, but permits such awards up to \$25,000 if approved by the Commission. Authorizes the President to pay additional cash awards and incur expenses for honorary recognition if a suggestion or invention is of a highly meritorious or exceptional nature. States that due weight shall be given to awards in considering employees for promotion. Repeals all existing laws governing incentive-awards programs. Establishes the effective date of the bill as 90 days after its enactment.

Rep. Hagen, subcommittee chairman, stated: "I want to emphasize at this point that section 3 (a) of this bill will permit departments and agencies to continue the practice of granting length-of-service awards for longevity as is presently done under authority of Public Law 600 of the 79th Congress" (p. 4329).

5. CIVIL DEFENSE. Passed without amendment H. R. 7308, to repeal Sec. 307 of the Federal Civil Defense Act of 1950 which provides for termination of title III (emergency authority) on June 30, 1954 (p. 4328).
6. FARM LABOR. Agreed to the conference report on H. J. Res. 461, appropriating \$478,000 additional to the Labor Department for the Mexican farm labor program (p. 4324).
7. INTERIOR APPROPRIATION BILL, 1955. Began debate on this bill, H. R. 8680 (pp. 4340-61). A considerable portion of the debate was on reclamation and electrification items.
8. SUGAR. Rep. Willis urged an increase in the quota of the mainland cane sugar area from 500,000 to 600,000 tons of raw sugar (pp. 4368-70).
9. TUNA IMPORTS. Rep. King, Calif., urged increased restrictions on tuna imports (pp. 4361-2).

SENATE

10. ROAD AUTHORIZATIONS. Began debate on S. 3184, to authorize road appropriations for the fiscal years 1956 and 1957 (pp. 4310-2).
11. SUGAR. Sen. Ellender spoke in favor of his bill, S. 3019, to increase the domestic sugarcane quota by 100,000 tons (pp. 4318-9).

assets of the Federal Farm Mortgage Corporation.

The SPEAKER. Is there objection to the present consideration of the bill?

Mr. ASPINALL. Reserving the right to object, Mr. Speaker, will some member of the committee or the sponsor of the bill give a short explanation of this proposed legislation?

Mr. HOPE. This bill provides that the remainder of the Federal Farm Mortgage Corporation loans may be sold in bulk to each of the 12 Federal land banks which cover the territory in which these loans now exist.

I may say in explanation of why this situation becomes important that back in the early thirties the Federal Farm Mortgage Corporation was set up to make supplemental loans, in most cases to Federal land banks loans. That was back in the days of the depression. A very large number of loans were made by the Federal Farm Mortgage Corporation. Some of them were direct loans and some of them were supplemental loans to Federal land bank loans. In the meantime, most of those loans have been retired. There are only approximately 19,000 as I recall, that are left at this time. They are installment loans, amortized loans. They are paid down to where the average first mortgage is now only \$564, and the average size of the second loan is \$689.

Mr. POAGE. Mr. Speaker, will the gentleman yield?

Mr. ASPINALL. I yield to the gentleman from Texas.

Mr. POAGE. Actually these loans are so small that in the case of at least one of the Federal land banks it is costing more to service them than the amount of interest received.

Mr. HOPE. Yes.

Mr. POAGE. That will be true in every one of the Federal land banks within the next few years, because as the loans reach that small point the service cost is more than the amount the loans bring in. The purpose of this legislation is to let the land banks, which carry on those operations anyhow, service them as their own loans, because this would require the land bank to pay the appraised value of them anyhow. It is just a matter of picking up these odds and ends that have developed over a period of years and that are still in the hands of the Federal Farm Mortgage Corporation, which was created to carry mortgages during the depression. The purpose is to get those odds and ends in the hands of a real operating agency, because the Federal land banks are going to continue to operate but the Federal Farm Mortgage Corporation is not making any new loans. That is the whole purpose, just to simplify the operation of these things.

Mr. HOPE. That is correct. The Federal land banks are now serving them under a contract with the Federal Farm Mortgage Corporation. The cost in at least one land bank district, as the gentleman from Texas has said, exceeds the returns that come in. If the Federal land banks are willing to take these loans over, and I understand they are, and handle them as they are, I think it

would be a better arrangement all the way around. The Federal Government is fully protected. The Federal Farm Mortgage Corporation has more than paid out. It has returned every cent the Government put up and in addition has paid dividends in a large amount.

Mr. ASPINALL. Will the gentleman state whether or not this bill was reported out by a unanimous vote?

Mr. HOPE. Yes, that is true. It was very carefully considered and was reported unanimously.

Mr. ASPINALL. I withdraw my reservation of objection, Mr. Speaker.

The SPEAKER. Is there objection to the present consideration of the bill?

There being no objection, the Clerk read the bill, as follows:

Be it enacted, etc., That section 13 of the Federal Farm Loan Act, as amended (12 U. S. C. 781), is further amended by adding at the end thereof the following new paragraph:

"Twentieth. Without regard to any limitations or restrictions of this act, to purchase all assets, except cash, accounts receivable, and reserved mineral interests, held by the Federal Farm Mortgage Corporation in the farm credit district in which said bank is situated and to assume the liabilities of said Corporation for future payment funds of borrowers and trust accounts applicable to said assets. The purchase price of notes and mortgages, purchase money mortgages, and real estate sales contracts shall be equal to the total of the unpaid balances on such items and accrued interest thereon at the date of purchase, less the total of the liabilities of the Corporation being assumed by the bank as herein provided. The purchase price of real estate, sheriff's certificates, loans called for foreclosure, loans in suspense, judgments, and any other assets eligible for purchase under this paragraph but not specifically identified herein shall be equal to the fair market value of the assets as determined by agreement. The total consideration for the purchase shall be payable over a period of not more than 10 years from the date of purchase, and upon such terms as shall be agreed upon through negotiation with the board of directors of the Corporation."

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

SHOSHONE RECLAMATION PROJECT

The Clerk called the bill (H. R. 6988) to amend an act approved December 15, 1944, authorizing the Secretary of the Interior to convey certain land in Powell townsite, Wyoming, Shoshone reclamation project, Wyoming, to the University of Wyoming.

There being no objection, the Clerk read the bill, as follows:

Be it enacted, etc., That section 1 of the act approved December 15, 1944, Public Law 487, 78th Congress, chapter 590, second session, is hereby amended to terminate the trust imposed on the land caused to be conveyed by patent by the Secretary of the Interior to the University of Wyoming, under and by virtue of the authority of said act, without affecting the reservation to the United States of all oil, coal, and other mineral deposits within said lands and the right to prospect for, mine, and remove the same, as in said act provided, by striking out the following: "in trust for use as an agricultural experiment station;"

SEC. 2. Section 2 of said act of December 15, 1944, Public Law 487, 78th Congress, chapter 590, second session, to accomplish the purposes aforesaid, is also amended by striking out the whole thereof.

SEC. 3. The Secretary of the Interior is hereby authorized and empowered to execute and deliver to the University of Wyoming any documentary evidence which he may determine to be necessary to carry out the intent of this act.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

UNIFORMED SERVICES CONTINGENCY OPTION ACT OF 1953

The Clerk called the bill (H. R. 8539) to extend the period of election under the Uniformed Services Contingency Act of 1953 for certain members of the uniformed services.

There being no objection, the Clerk read the bill, as follows:

Be it enacted, etc., That section 3 (a) of the Uniformed Services Contingency Option Act of 1953 is amended by deleting in the third sentence the words "one hundred and eighty days" and substitute thereof the words "one year."

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

PATENTING OF PLANTS

The Clerk called the bill (H. R. 5420) to amend section 161, title 35, United States Code, relating to the patenting of plants.

There being no objection, the Clerk read the bill, as follows:

Be it enacted, etc., That section 161, title 35, United States Code, is hereby amended to read as follows:

"Sec. 161. Patents for plants: Whoever invents or discovers and asexually reproduces any distinct and new variety of plant, including cultivated sports, mutants, hybrids, and newly found seedlings, other than a tuber-propagated plant or wild variety found in an uncultivated state, may obtain a patent therefor, subject to the conditions and requirements of this title.

"The provisions of this title relating to patents for inventions shall apply to patents for plants, except as otherwise provided."

With the following committee amendments:

Page 1, line 8, strike out "tuber-propagated" and insert "tuberpropagated."

Page 1, line 9, strike out "wild variety" and insert in lieu thereof "a plant."

The committee amendments were agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

The SPEAKER. That concludes the call of the Consent Calendar.

VESTING TITLE TO CERTAIN SCHOOL LANDS IN STATES

Mr. HAGEN of California. Mr. Speaker, I ask unanimous consent to return for immediate consideration to

Consent Calendar No. 308, the bill (H. R. 7110) to provide that title to certain school lands shall vest in the States under the act of January 25, 1927, notwithstanding any Federal leases which may be outstanding on such lands at the time they are surveyed.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the bill, as follows:

Be it enacted, etc., That the first section of the act entitled "An act confirming in States and Territories title to lands granted by the United States in the aid of common or public schools," approved January 25, 1927, as amended (43 U. S. C., sec. 870), is amended by adding at the end thereof the following new subsection:

"(d) (1) Notwithstanding subsection (c), the fact that there is outstanding on any numbered mineral section at the time of its survey a lease or leases entered into by the United States, or an application therefor, shall not prevent the grant of such numbered mineral section to the State concerned as provided in this act.

"(2) Any numbered mineral section which has been surveyed prior to the date of the enactment of this subsection, and which has not been granted to the State concerned solely by reason of the fact that there was outstanding on it at the time of the survey a lease or leases entered into by the United States, or an application therefor, is hereby granted by the United States to such State under this section as if it had not been so leased; and the State shall succeed to the position of the United States as lessor under such lease or leases.

"(3) Any numbered mineral section which is surveyed on or after the date of the enactment of this subsection, and on which there is outstanding at the time of such survey a lease or leases entered into by the United States, shall (unless excluded from the provisions of this section by subsection (c) for a reason other than the existence of an outstanding lease) be granted to the State concerned immediately upon completion of such survey; and the State shall succeed to the position of the United States as lessor under such lease or leases.

"(4) The Secretary of the Interior shall, upon application by a State, issue patents to the State for the lands granted by this act, in accordance with the act of June 12, 1934 (48 Stat. 1185, 43 U. S. C., sec. 871a). Such patent shall include a statement that the State succeeded to the position of the United States as lessor at the time the title vested in the State."

SEC. 2. Subsection (c) of such act, as amended, is amended by striking out "That" and by inserting in lieu thereof the following: "Except as provided in subsection (d)."

With the following committee amendment:

On page 3, line 8, add the following:

"(5) Where, at the time royalties accrue, the lands or deposits covered by a single lease are owned in part by the State and in part by the United States, the royalties shall be allocated between them in proportion to the acreage in said lease owned by each."

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

THE LATE HONORABLE WALTER M. PIERCE

The SPEAKER. The Chair recognizes the gentleman from Oregon [Mr. COON].

Mr. COON. Mr. Speaker, it is with deep regret that I tell the Congress of the passing on March 27 of my distinguished and worthy predecessor in the Congress, Hon. Walter M. Pierce. He represented the Second District of Oregon for 10 years from the 73d through the 77th Congress. I have heard many fine tributes paid to him by Members of the Congress who served with him, and it is an honor for me to speak of him and the contribution he made.

I share the grief of his devoted family. He leaves his widow, Mrs. Cornelia Marvin Pierce, and four daughters, Mrs. Helen Wilson, of Mountain Lakes, N. J.; Mrs. Harold Hall and Mrs. R. G. Whitten, of Portland; and Mrs. George Stadelman, of the Dalles, Ore. I have had the privilege of being acquainted with only one of his daughters, Mrs. Stadelman, who is a very fine citizen of The Dalles, Ore. I also know her husband, my good friend Mr. George Stadelman, who is one of the leading citizens of Wasco County. I likewise have the honor to know Mrs. Pierce, who worked closely with her husband and was of inestimable value to him in his work and his service in the Congress.

Congressman Pierce was born in Illinois the same year that Abraham Lincoln was inaugurated as President and he loved Lincoln stories and history. He was a deep student of history and was one of the great orators of the House when he was a Member.

In 1883 he moved to Oregon, where he taught school and served as county school superintendent and county clerk. In 1896 he received a law degree from Northwestern University, Evanston, Ill. He practiced law for 10 years, operated livestock and wheat farms, engaged in banking and the power and light business, was in the Oregon State Senate 2 terms, and was the honored Governor of Oregon from 1923-27. I feel that his memory will remain a deep and important part of Oregon.

The life of Walter Marcus Pierce was one of high purpose and earnestness, and today on the floor of this Congress where he has so often stood I pay honor to him, a loyal Oregonian, a good American and a true gentleman.

Mr. ANGELL. Mr. Speaker, will the gentleman yield?

Mr. COON. I yield to the gentleman from Oregon.

Mr. ANGELL. Mr. Speaker, I served in the House with Governor Pierce and I want to add my tribute to his memory.

I came to the Congress in the 76th Congress at the time our late colleague was a Member of the House. I had the opportunity of serving with him for many years. I found him very valuable to me, although we sat on opposite sides of the aisle, when I came here, inexperienced in this body. He was always helpful and always a friend. As the gentleman from Oregon has said, he occupied a unique place in the State of Oregon. He occupied many of the most important official positions that the State of Oregon could give to any citizen. He was Governor of our State. He represented the State in this body for many years, and he held many other public offices in the State of Oregon. Although he belonged to the Democratic

Faith, Oregon at that time was strongly Republican. Notwithstanding that, he received a large vote in every election in which he was a candidate.

I am glad to join with my colleague from Oregon in paying this tribute to our late departed friend.

Mr. Speaker, I include in my remarks three approvals of the life and work of our late colleague which appeared in the Oregon press at the time of his death:

[From the Portland Oregonian of March 28, 1954]

EX-GOVERNOR PIERCE DIES

SALEM.—Walter M. Pierce, Governor of Oregon from 1923 to 1927, died Saturday night at his home near Eola. He was 92.

Death came at 8:40 p. m. He had been bedfast the past year, and took a turn for the worse last week.

Mr. Pierce's political career started in 1886 with his election as Umatilla County school superintendent and ended 56 years later when, at the age of 81, he barely won the Democratic nomination to succeed himself in Congress. He lost in the general election to Lowell Stockman, Pendleton rancher.

A devoted Democrat and champion of liberal causes, Mr. Pierce often quarreled with his own party leaders. He was a powerful influence in the public power movement and waged a lifelong war against liquor.

In his 90th birthday letter to his family, he wrote: "I was a New Dealer, and proud of it."

Mr. Pierce was a famous breeder of Hereford cattle, and when elected governor his ranch near La Grande contained 13,000 acres. He prided himself as being a farmer-governor.

[From the Portland Oregonian of March 28, 1954]

LIBERAL CAUSES SUPPORTED BY EX-GOVERNOR PIERCE

Ex-Gov. Walter M. Pierce, who died at his country home near Eola in Polk County Saturday night, devoted his life to politics and maintained an active political interest until shortly before his death at 92.

Born at Morris, Ill., May 30, 1861, he came to Oregon in 1883, and after living in Portland a short time moved to Pendleton. He entered politics there, and soon became a leader in Democrat Party circles.

His political life was spent in Umatilla and Union Counties, where he had a big ranch. It was from there he rose to serve Oregon as Democratic governor and Congressman in a State generally Republican.

LIBERAL CAUSES SUPPORTED

A campaigner for liberal causes, Mr. Pierce championed public power and was a strong factor in the initiative and referendum movement. He fought for State aid for school districts, having United States Senators elected by the people, adoption of State income and gasoline taxes, guarding of civil liberties, Federal aid for farmers, irrigation development, and forest conservation.

A lifelong prohibitionist, he first entered the political arena at Milton in the middle 1880's, when he waged a successful campaign to throw liquor out of Milton.

His defeat for his congressional seat in 1942 he blamed on the fact he opposed creating the House Un-American Activities Committee.

Mr. Pierce first met Franklin D. Roosevelt when the latter was Assistant Secretary of the Navy and they were friends until the late President died.

Mr. Pierce was defeated a number of times in his campaigns for office. Often he ran for public office simply because no other Democrat could be persuaded to run.

He was never known to hold bitter feeling toward his opponents. His keen sense of

83^D CONGRESS
2^D SESSION

H. R. 5420

IN THE SENATE OF THE UNITED STATES

APRIL 6 (legislative day, APRIL 5), 1954

Read twice and referred to the Committee on the Judiciary

AN ACT

To amend section 161, title 35, United States Code, relating to the patenting of plants.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That section 161, title 35, United States Code, is hereby
4 amended to read as follows:

5 “SEC. 161. PATENTS FOR PLANTS.—Whoever invents or
6 discovers and asexually reproduces any distinct and new
7 variety of plant, including cultivated sports, mutants, hybrids,
8 and newly found seedlings, other than a tuberpropagated
9 plant or a plant found in an uncultivated state, may obtain
10 a patent therefor, subject to the conditions and requirements
11 of this title.

1 “The provisions of this title relating to patents for
 2 inventions shall apply to patents for plants, except as other-
 3 wise provided.”

Passed the House of Representatives April 5, 1954.

Attest:

LYLE O. SNADER,

Clerk.

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17TH JUNE 1944
H. R. 2450

83^d CONGRESS
2^d Session

H. R. 5420

AN ACT

To amend section 161, title 35, United States Code, relating to the patenting of plants.

APRIL 6 (legislative day, APRIL 5), 1954

Read twice and referred to the Committee on the
Judiciary

PATENTING OF PLANTS

JULY 19 (legislative day, JULY 2), 1954.—Ordered to be printed

Mr. WILEY, from the Committee on the Judiciary, submitted the following

REPORT

[To accompany H. R. 5420]

The Committee on the Judiciary, to which was referred the bill (H. R. 5420) to amend section 161, title 35, United States Code, relating to the patenting of plants, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

PURPOSE

The purpose of the proposed legislation is to amend section 161, title 35, United States Code, relating to the patenting of plants, in order to indicate clearly that plant seedlings discovered, propagated asexually and proved to have new characteristics distinct from other known plants, are patentable under the patent laws of the United States.

STATEMENT

Under the present Plant Patent Act, seedling plants developed by chance, with no attention or effort by the owner, are not subject to a patent. The enactment of this legislation will remove any doubt that the legislative intent of the Congress clearly means that sports, mutants, hybrids, and seedlings, discovered by persons engaged in agriculture or horticulture, should be patentable, and it would also strengthen the original purpose for the enactment of a Plant Patent Act by enhancing the incentive for achievement in plant breeding, gardening, and horticulture.

The Department of Agriculture recommends passage of the bill if certain amendments are made. The amendment suggested by the Department of Agriculture relative to wild variety was accepted and the term "wild variety" was deleted from the bill, but the balance of

the amendment suggested was not, for the reason that it is believed that the test of ownership of a patent is a matter for court decision or determination. In this connection, the Department of Commerce, in a supplemental report dated January 28, 1954, to Hon. Kenneth B. Keating, states that the deletion of the words in the bill "or wild variety found in an uncultivated state" would improve the bill, in their opinion. As stated before, the words "or wild variety" have been deleted from the bill and the balance has been left in the legislation as it passed the House. The letter from the Secretary of Commerce further comments that there would be a possible conflict of claims of ownership of patentable plants raised in the penultimate paragraph of the memorandum from the Patent Office, but the committee again believes that the question of ownership is a matter for court determination. It was further stated that H. R. 5420 might be unconstitutional, but the committee is of the opinion that this type of legislation does have constitutional basis for its enactment.

It is the considered opinion of those who have studied this matter that a grower of plants who, through no particular efforts of his own other than perhaps by accident, develops a new plant which is, nevertheless, due to his activity, should be entitled to patent such plant in the same manner as though he had deliberately planned the result achieved. The committee, after consideration, is of the opinion that the legislation is meritorious and, therefore, recommends approval of the bill, H. R. 5420.

Attached hereto and made a part of this report is the report of the Department of Agriculture; the above-referred-to supplemental report from the Secretary of Commerce, and other data submitted in connection with this bill.

DEPARTMENT OF AGRICULTURE,
Washington, D. C., October 5, 1953.

HON. CHAUNCEY W. REED,
Chairman, Committee on the Judiciary,
House of Representatives, Washington, D. C.

DEAR MR. REED: This is in reply to your request of June 15, 1953, for a report on H. R. 5420, a bill to amend section 161, title 35, United States Code, relating to the patenting of plants.

The bill provides that whoever invents or discovers and asexually reproduces any distinct and new variety of plant, including cultivated sports, mutants, hybrids, and newly found seedlings, other than a tuber-propagated plant or wild variety found in an uncultivated state, may obtain a patent therefor. Under the present Plant Patent Act, seedling plants developed by chance, with no attention or effort by the owner, are not subject to patent.

The wording of the amendment appears to be ambiguous in certain respects. If John Doe discovers a mutant in an orchard owned and operated by another, who is entitled to the patent—the discoverer of the mutation or the owner of the orchard in which it occurred? It is suggested that the bill be amended by inserting a limitation that patents may be obtained only with respect to new varieties which the inventor owns or for the reproduction of which he has the owner's permission. The reason for this amendment is that trees and similar plants constitute a part of the real estate on which they grow. It is intended that patenting be authorized only in those cases where new varieties are owned by the inventor or discoverer or for the reproduction of which he has the owner's permission.

There is also ambiguity in the wording in line 9, "a wild variety found in an uncultivated state." It is suggested that this phrase be amended by substituting the word "plant" for "wild variety," and that there be inserted after the words "uncultivated state" some such phrase as "or in a location where no effort has been made to promote the growth of the plant. * * *

The first paragraph of the section as amended would thus read (proposed U. S. Department of Agriculture language italicized):

"SECTION 161. PATENTS FOR PLANTS

"Whoever invents or discovers and asexually reproduces any distinct and new variety of plant *which he owns or for the reproduction of which he has the owner's permission (such plants to include [including] cultivated sports, mutants, hybrids, and newly found seedlings), other than a tuber-propagated plant or [wild variety] a plant found in an uncultivated state or in a location where no effort has been made to promote the growth of the plant,* may obtain a patent therefor, subject to the conditions and requirements of this title."

The Plant Patent Act was originally passed for the purpose of increasing the incentive for achievement in plant breeding, gardening, and horticulture. The bill, if amended as suggested above would further increase those incentives by authorizing the patenting of plants discovered and propagated in orchards and gardens.

This Department recommends passage of the bill if amended as suggested above. The Bureau of the Budget advises that, from the standpoint of the program of the President, there is no objection to the submission of this report.

Sincerely,

TRUE D. MORSE,
Acting Secretary.

AUGUST 26, 1953.

HON. CHAUNCEY W. REED,

*Chairman, Committee on the Judiciary,
House of Representatives, Washington, D. C.*

DEAR MR. CHAIRMAN: This letter is in reply to your request of June 15, 1953, for the views of this Department with respect to H. R. 5420, a bill to amend section 161, title 35, United States Code, relating to the patenting of plants.

This Department recommends against enactment of H. R. 5420 for the reasons set forth in the attached memorandum dated July 20, 1953, to the General Counsel of the Department from the Commissioner of Patents.

We have been advised by the Bureau of the Budget that it would interpose no objection to the submission of this letter.

If we can be of further assistance in this matter, please call on us.

Sincerely yours,

ROBERT B. MURRAY,
Acting Secretary of Commerce.

DEPARTMENT OF COMMERCE,
UNITED STATES PATENT OFFICE,
Washington, July 20, 1953.

MEMORANDUM RE H. R. 5420

To: The General Counsel.

From: Patent Office.

This bill proposes to amend section 161, title 35, United States Code, by adding "cultivated sports, mutants, hybrids and newly found seedlings other than a * * * wild variety found in an uncultivated state" to the plants within the scope of the section providing for plant patents. The language used appears to contemplate the grant of a patent to one who has merely found a plant not previously known and has contributed nothing to producing it, provided it is found in a cultivated state.

In the case of *Thompson et al. v. Boisselier et al.* (114 U. S. 1), it was held by the Supreme Court of the United States that the constitutional provision relating to patents requires that "The beneficiary must be an inventor, and he must have made a discovery" and that "It is not enough that a thing shall be new in the sense that in the shape or form in which it is produced it shall not have been before known, and that it shall be useful, but it must under the Constitution and the statute amount to an invention or discovery."

The question of constitutionality was carefully considered by the Congress in connection with the original plant patent law, and is discussed in substantially the same way in the reports to accompany H. R. 11372 (H. Rept. 1129, 71st Cong.) and S. 4015 (S. Rept. 315, 71st Cong.), 71st Congress. While a portion of that discussion seems to indicate that the committees were of the opinion that the

grant of a patent solely on the basis of finding a new plant would not exceed the constitutional authority, the primary basis for holding the law then under consideration to be constitutional was that there is a "clear and logical distinction" between the finding of a mineral which "is created wholly by nature unassisted by man" and a "plant discovery resulting from cultivation" which cannot "be reproduced by nature unaided by man." The reports also point out, in support of constitutionality, that "the committee has, by its amendment in striking out the patenting of 'newly found' varieties of plants, eliminated from the scope of the bill those wild varieties discovered by the plant explorer or other person who has in no way engaged either in plant cultivation or care and who has in no other way facilitated nature in the creation of a new and desirable variety."

From the language used in the reports it seems clear that serious doubts were entertained by the committees as to whether a patent could properly be granted merely on the basis of finding a new plant. It has been consistently held in other fields that the mere discovery of an article or composition which is old in nature cannot in itself form the basis for a patent.

It is possible that the references to cultivation in the present bill might be urged as distinguishing from a pure chance find. However, there is nothing in the language used which would require the prospective patentee to have made any contribution whatever to the producing of the plant, or even to its cultivation. Apparently he might have discovered it in a neighbor's garden. Accordingly, so far as constitutionality is concerned, the language of the bill does not differ materially from the inclusion of any newly discovered plant already existing in nature.

Apart from any possible bearing on the question of constitutionality, there seems to be no good reason for limiting patentable discoveries of plants to those made in cultivated areas. On the contrary, it would seem that the progress of science and the useful arts would be better promoted by rewarding one who has gone to the trouble and expense of locating and making available a new plant found in a remote area, than one who has merely accidentally discovered such a plant in his own or another's garden.

It would appear, moreover, that the language of the bill would give rise to difficult questions of interpretation. It is not certain whether the new plant itself must be the subject of cultivation, or must merely be found in a cultivated area. Apparently the question of patentability might sometimes be reduced to one as to which side of a fence the plant was found on. Questions of inventorship and ownership may also arise.

It is thought that the adoption of the bill in its present form would not be advisable, but if the patenting of newly found plants is regarded as constitutional and in the interest of public policy, the Patent Office would interpose no objection to an appropriately drawn bill on the subject.

ROBERT C. WATSON, *Commissioner*.

THE SECRETARY OF COMMERCE,
Washington, January 8, 1954.

HON. KENNETH B. KEATING,
Committee on the Judiciary,
House of Representatives, Washington, D. C.

DEAR CONGRESSMAN KEATING: This is in reply to your letter of December 16, 1953, requesting our views with respect to an amendment of H. R. 5420 which has been suggested. The suggested amendment would delete the words "or wild variety found in an uncultivated state" in line 9 of the bill.

The amendment would extend the proposed authority for patenting plants to those found growing in uncultivated areas. The bill as presently drawn specifically excludes such plants.

The proposed amendment would eliminate most of the objections to H. R. 5420 set forth in the last three paragraphs of the memorandum from the Commissioner of Patents attached to our report to the committee on H. R. 5420 submitted by Acting Secretary Murray on August 26, 1953. However, the proposed amendment would not eliminate the question with respect to possible conflicting claims of ownership of patentable plants raised in the penultimate paragraph of the memorandum, nor would the incorporation of this amendment in the bill allay our fears that legislation such as H. R. 5420 might be unconstitutional.

We have been advised by the Bureau of the Budget that it would interpose no objection to the submission of this letter.

If we can be of further assistance in this matter, please call on us.

Sincerely yours,

SINCLAIR WEEKS, *Secretary of Commerce*.

CHANGES IN EXISTING LAW

In compliance with subsection (4) of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

SECTION 161 of TITLE 35, UNITED STATES CODE

§ 161. Patents for plants

Whoever invents or discovers and asexually reproduces any distinct and new variety of plant, *including cultivated sports, mutants, hybrids, and newly found seedlings*, other than a tuberpropagated plant [.] or a plant found in an uncultivated state, may obtain a patent therefor, subject to the conditions and requirements of this title.

The provisions of this title relating to patents for inventions shall apply to patents for plants except as otherwise provided.



Calendar No. 1952

83^D CONGRESS
2^D SESSION

H. R. 5420

[Report No. 1937]

IN THE SENATE OF THE UNITED STATES

APRIL 6 (legislative day, APRIL 5), 1954

Read twice and referred to the Committee on the Judiciary

JULY 19 (legislative day, JULY 2), 1954

Reported by Mr. WILEY, without amendment

AN ACT

To amend section 161, title 35, United States Code, relating to
the patenting of plants.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That section 161, title 35, United States Code, is hereby
4 amended to read as follows:

5 “SEC. 161. PATENTS FOR PLANTS.—Whoever invents
6 or discovers and asexually reproduces any distinct and new
7 variety of plant, including cultivated sports, mutants, hybrids,
8 and newly found seedlings, other than a tuberpropagated
9 plant or a plant found in an uncultivated state, may obtain
10 a patent therefor, subject to the conditions and requirements
11 of this title.

1 “The provisions of this title relating to patents for
2 inventions shall apply to patents for plants, except as other-
3 wise provided.”

Passed the House of Representatives April 5, 1954.

Attest:

LYLE O. SNADER,

Clerk.

Calendar No. 1952

83^d CONGRESS
2^d SESSION

H. R. 5420

[Report No. 1937]

AN ACT

To amend section 161, title 35, United States Code, relating to the patenting of plants.

APRIL 6 (legislative day, APRIL 5), 1954

Read twice and referred to the Committee on the
Judiciary

JULY 19 (legislative day, JULY 2), 1954

Reported without amendment

Digest of CONGRESSIONAL PROCEEDINGS

OF INTEREST TO THE DEPARTMENT OF AGRICULTURE

OFFICE OF BUDGET AND FINANCE
(For Department Staff Only)

Issued August 19, 1954
For actions of August 18, 1954
83rd-2nd, No. 161

CONTENTS

Advisory Committees.....23	Imports.....1	School lunch.....16
Animal-plant diseases....7	International agreements.....14	Small business.....26
Appropriations.....2,20	Jump Memorial.....32	Subsidies.....33
CCC.....1,19	Labor, farm.....9	Surplus commodities.....16,19,31
Census.....7	Lands, reclamation...10,21	Tariffs.....16
Civil defense.....2	Law revision.....7	Trade, foreign.....24
Drought relief.....8,22,25	Loans, farm.....29,34	Transportation.....5
Economic situation.....16	Nomination.....13	Travel.....5
Education.....11	Patents.....3	TVA.....33
Farm program.....15,27	Personnel.....5,6,18,35	Unemployment compensation.....18
Flood control.....17	Postal rates.....6	Water compact.....12
Food & drugs.....7	Prices, support...16,23,33	Water facilities.....29,34
Foreign aid.....19,20	Research.....28	Wheat.....30
Forestry.....4	Retirement.....6,18	
Fruits & vegetables.....1		
Grain.....22		

HIGHLIGHTS: Senate passed bill to increase CCC borrowing power, and House concurred in amendment re mangoes imports. Senate agreed to conference report on supplemental appropriation bill and acted on amendments in disagreement. Senators criticized drought-relief administration. Senate debated Federal pay raise. Senate passed plant patenting bill. Senate passed bill permitting long-term leases of forest lands. Senate committee reported bill to codify food-drug laws. House agreed to conference report on fringe-benefits personnel bill. House concurred in Senate amendments to flood control bill. House concurred in Senate amendments to unemployment compensation bill. Reps. Whitten and Burdick criticized farm program bill. Rep. Hope inserted President's statement when signing water facilities bill. Sen. Fulbright inserted Democratic Digest article on farm program. Conferees agreed to file report on foreign-aid appropriation bill. Rep. Brown (Ga.) urged drought relief for Ga. Rep. Polk criticized agricultural advisory committees.

SENATE

1. COMMODITY CREDIT CORPORATION. Passed H. R. 9756, to increase the borrowing power of CCC from \$8½ billion to \$10 billion, with an amendment by Sen. Holland to add mangoes to the provision in the farm program bill which would require that certain imported fruits and vegetables comply with the standards of domestic marketing orders (pp. 14208-9). The House concurred in the amendment (p. 14179). This bill will now be sent to the President.
2. SUPPLEMENTAL APPROPRIATION BILL, 1955. Agreed to the conference report on this bill, H. R. 9936. Concurred in the House amendments, to Senate amendments, mentioned in Digest 160. Sen. Kefauver criticized plans to move headquarters of the Civil Defense Administration to Mich. (pp. 14213-23.) This bill will now be sent to the President.

3. PATENTS. Passed without amendment H. R. 5420, providing that a patent may be obtained on cultivated sports, mutants, hybrids, and newly found seedling plants (p. 14229). This bill will now be sent to the President.
Discussed and, on objection of Sen. Gore, passed over H. R. 3534, to authorize extension of patents covering inventions whose practice was prevented or curtailed during certain emergency periods (pp. 14255-6).
4. FORESTRY. Passed with amendment H. R. 1254, to permit 30-year leases of national forest and certain other Federal lands for public purposes (pp. 14227-8).
5. TRAVEL; TRANSPORTATION. Passed without amendment H. R. 179, which authorizes pay of travel expenses of certain civilian employees stationed outside continental U. S. and their immediate families in connection with taking periodic leaves of absence in the U. S., authorizes return of the immediate families and household goods of employees prior to the return of the employees under certain circumstances, etc. (p. 14229). This bill will now be sent to the President.
6. PERSONNEL. Passed without amendment H. R. 7785, to amend the Civil Service Retirement Act so as to make permanent the increases in regular annuities provided by the act of 1952, and to extend such increases to additional annuities purchased by voluntary contributions (p. 14247). This bill will now be sent to the President.
Concurred in a House amendment to S. 3627, to amend the Civil Service Retirement Act so as to require an employee to complete 1 year of creditable civilian service subject to the Act within the 2-year period preceding separation in order to establish title to his annuity from the civil service retirement and disability fund (p. 14306). This bill will now be sent to the President.
During debate on H. R. 2235, a reclamation bill, Sen. Johnston offered an amendment/the committee substitute for H. R. 7774 (the incentive-awards bill), which would grant a 5% Federal pay raise. The Johnston amendment was rejected, 47 to 30. (pp. 14292-8.)
During calendar call, discussed the committee provisions (as amendments to H. R. 7774) for a Federal pay raise and the Knowland amendments (which were printed in the Record) to provide a 3½% pay raise for classified employees and increases in postal rates. No action was taken on the amendments, but it was indicated that they would be formally considered later. (pp. 14230-1, 14249-55.)
The Post Office and Civil Service Committee reported without amendment H. R. 1553, to amend the Civil Service Retirement Act so as to provide for the inclusion in the computation of accredited service of certain periods of service rendered to States or instrumentalities of States (S. Rept. 2494)(p. 14201).
The Committee also reported S. Con. Res. 105, "to express the sense of the Congress on excusing Government employees from work on the afternoon of August 31, 1954, to attend the parade of the American Legion in the District of Columbia" (S. Rept. 2495)(p. 14201).
7. LAW REVISION. The Judiciary Committee reported with amendments bills to codify titles of the U. S. Code and enact them into positive law, as follows: H. R. 9728, title 21, regarding food, drugs, and animal-plant diseases (S. Rept. 2496); H. R. 9729, title 13, "Census" (S. Rept. 2497); and H. R. 9730, corrections of various obsolete references (S. Rept. 2498)(p. 14201).
8. DROUGHT RELIEF. Various Senators criticized USDA administration of the drought-relief program (pp. 14266-70, 14277-82).
9. FARM LABOR. Passed without amendment S. 3813, to permit immigration of certain

The PRESIDING OFFICER. The resolution will be passed over.

The bill (S. 1737) for the relief of certain former employees of the Inland Waterways Corp. was announced as next in order.

Mr. GORE. Over.

Mr. HENDRICKSON. Over, by request.

The PRESIDING OFFICER. The bill will be passed over.

The bill (S. 3166) for the relief of the city of Sandpoint, Idaho, was announced as next in order.

Mr. MORSE. Over.

The PRESIDING OFFICER. The bill will be passed over.

The bill (S. 3214) for the relief of Mrs. Marie Monchen was announced as next in order.

Mr. HENDRICKSON. Over.

The PRESIDING OFFICER. The bill will be passed over.

The bill (H. R. 1370) for the relief of Guy H. Davant was announced as next in order.

Mr. GORE. Over.

The PRESIDING OFFICER. The bill will be passed over.

CLARENCE D. NEWLAND

The Senate proceeded to consider the bill (H. R. 2032) for the relief of Clarence D. Newland, which had been reported from the Committee on the Judiciary with an amendment, on page 2, line 16, after the word "act", to strike out "in excess of 10 percent thereof."

The amendment was agreed to

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time and passed.

BILL PASSED OVER

The bill (H. R. 3222) for the relief of Martin Luther Johnson was announced as next in order.

Mr. GORE. Over.

The PRESIDING OFFICER. The bill will be passed over.

DAVID W. WALLACE

The bill (H. R. 4638) for the relief of David W. Wallace was announced as next in order.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on the Judiciary with an amendment, on page 1, line 9, after the word "act", to strike out "in excess of 10 percent thereof."

Mr. McCARRAN. Mr. President, as I heard the bill read, did I correctly understand that attorneys' fees are allowed?

The PRESIDING OFFICER. As amended, the bill provides for no attorneys' fees.

Mr. McCARRAN. I thank the Presiding Officer.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time and passed.

AMENDMENT OF UNITED STATES CODE RELATING TO PATENTING OF PLANTS

The bill (H. R. 5420) to amend section 161, title 35, United States Code, relating to the patenting of plants was considered, ordered to a third reading, read the third time, and passed.

BILL PASSED OVER

The bill (S. 3305) to authorize payment of certain war claims including payment of veterans' claims arising out of the sequestration by the Imperial Japanese Government of credits of members of the military and naval forces of the United States and other United States nationals in the Philippines was announced as next in order.

Mr. GORE. Over.

The PRESIDING OFFICER. The bill will be passed over.

TRAVEL EXPENSES OF CIVILIAN EMPLOYEES STATIONED OVERSEAS

The bill (H. R. 179) to amend section 7 of the Administrative Expenses Act of 1946, as amended, was considered, ordered to a third reading, read the third time, and passed.

BILL PASSED OVER

The bill (S. 3517) to amend section 144 of title 28 of the United States Code was announced as next in order.

Mr. GORE. Over.

The PRESIDING OFFICER. The bill will be passed over.

PAYMENT OF TAXES ON REAL PROPERTY TRANSFERRED FROM GOVERNMENT CORPORATIONS—BILL PASSED OVER

The bill (H. R. 5605) to amend the Federal Property and Administrative Services Act of 1949, to provide for payment of taxes or payment in lieu of taxes with respect to real property transferred from Government corporations to other agencies of the Federal Government was announced as next in order.

Mr. GORE. Mr. President, may we have an explanation of the bill?

Mr. SALTONSTALL. Mr. President, broadly speaking, a very brief explanation of the bill is that when a plant is located in a city and is operated by a division of the Department of Defense, such as the Department of the Air Force, the locality loses its right to taxes. There is such a plant in Everett, Mass., which is operated by the General Electric Co. When it was operated by the RFC, the city of Everett collected taxes on it. The RFC gave up the plant, it was transferred to the Department of

the Air Force, and it is now being operated by the General Electric Co. under contract with the Department of the Air Force. As a result of the transfer, the city has lost the right to tax the plant.

I have for several years joined in introducing bills to cover such situations. It is my understanding that the Defense Department, the Treasury Department, and the Bureau of the Budget object to bills of this character. I am informed that there are 93 similar instances throughout the United States.

I address a question to the distinguished Senator from Tennessee. I ask him if his objection is based on the fact that the Department of Defense does not like this type of bill and objects to the present method of dealing with such situations, which is a hardship on localities?

Mr. GORE. In reply to the able senior Senator from Massachusetts, I advise him that I believe the bill has a great deal of merit. I am not in sympathy with the situation which it seeks to relieve. I have no objection to the merits of the bill as such. I believe I would favor the passage of such a bill. However, as the able Senator has stated, since there are 93 instances parallel to this situation, and since it is a matter of considerable importance, and is general legislation which is objected to by the Department of Defense, I have serious reservations as to the advisability of passing such a far-reaching and important bill on the call of the calendar, because it is not possible to have adequate debate and consideration.

Mr. SALTONSTALL. I concede the force of the distinguished Senator's objection. My only observation is that it is unfortunate that the bill should come up at such a late date in the session.

Mr. GORE. I agree. The junior Senator from Massachusetts is likewise very much interested in the bill. I shall be glad to join the distinguished Senators from Massachusetts in a request to the majority leader to schedule the bill for consideration.

Mr. SALTONSTALL. I thank the Senator.

Mr. MORSE. Mr. President, will the Senator yield?

Mr. SALTONSTALL. I am happy to yield, if I have the floor.

Mr. MORSE. Mr. President, the bill deserves considerable discussion on the floor of the Senate. We cannot possibly discuss the policy involved in this bill and all the implications of that policy in a short time on the floor of the Senate. I am open-minded about it, and if I can be convinced that this is a sound bill, I shall change my present position.

However, what we would be doing would be to open the whole question of whether to give communities in which the Government locates defense and military installations the right to collect taxes from the Defense Department. That is what it amounts to. When I think of all the interest in Congress with respect to getting military installations located in various localities of the country, I believe we would be adopting a very unsound public policy if we were to have

the Government pay taxes for the privilege of locating such an installation within a locality.

I am sure that the city of Everett, Mass., has not lost so much as one cent by the location of this installation there. To the contrary, I believe the establishment has poured into the treasury of the city of Everett great sums of money which never would have gone into its treasury if the plant had not been located there.

Unless we could have a thorough discussion of the policy, which, as has already been brought out by the Senator from Massachusetts, is opposed by the Bureau of the Budget, I certainly would not agree to have it passed on the call of the calendar; nor would I, under terrific pressure for shortening debate in the dying days of the session, be willing to have such a bill considered under any agreement to limit debate.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

Mr. MORSE. I object.

The PRESIDING OFFICER. Objection is heard—

Mr. BUSH. Mr. President, will the Senator from Oregon withhold his objection for a moment?

Mr. MORSE. I withhold it.

Mr. BUSH. I wish to speak strongly in support of the statement of the Senator from Massachusetts with reference to this bill. In response to the observations of the Senator from Oregon, I will say that in one town in my State certain property is subject to taxation which amounts to \$68 million, and the property exempt from taxation because it belongs to the Government amounts to more than \$80 million.

As I recall, this bill was introduced in the early part of 1953. I do not know what has happened to it. I testified on it last year in hearings held on it. I am greatly distressed that it is to be held up and not passed this year. It involves a very important matter, and it has been kicking around for a year and a half.

Mr. GORE. Mr. President, will the Senator from Connecticut yield?

Mr. BUSH. I yield.

Mr. GORE. I am advised that the senior Senator from Missouri [Mr. HENNINGSEN] wishes to join in requesting the majority leader to schedule the bill for consideration.

The PRESIDING OFFICER. Is there objection to the consideration of the bill?

Mr. MORSE. Mr. President, I shall withhold my objection for a moment.

Mr. IVES. Mr. President, I happen to live in one of the States which has a number of communities affected in the same way as the communities which have been referred to by the Senator from Massachusetts and the Senator from Connecticut. I should like very much to see the bill pass. I only hope we can have an opportunity to pass it before we adjourn.

Mr. HUMPHREY. Mr. President—

The PRESIDING OFFICER. Does the Senator from Oregon withhold his objection in order that the Senator from Minnesota may make a statement?

Mr. MORSE. Yes.

Mr. HUMPHREY. Mr. President, during the time I have been a member of the Committee on Government Operations it has been my privilege to participate in some of the hearings held on this measure. Last year I served on the President's Commission on Intergovernmental Relations. At the present time the Commission on Intergovernmental Relations is giving very careful study to the entire subject of payments in lieu of taxes by the Federal Government to localities and political subdivisions of States. This question will be the subject of discussion the coming weekend before that Commission. I happen to be in agreement with the statement of the necessity for action being taken with reference to this subject. There are literally hundreds of communities in the United States which today are seeing their tax base eaten away, so to speak, because of the immunity of the Federal Government from any local taxation or revenue-raising ordinances of States. While I realize that this is a question which requires considerable discussion, I think it should be crystal clear that for more than 5 years there have been bills on the calendar and before committees to approach a solution of this very urgent and pressing problem. I join with Senators who think the bill should be brought up again at this session, because we should take some action on it.

The PRESIDING OFFICER. The Chair understands that the Senator from Oregon [Mr. MORSE] renews his objection.

Mr. MORSE. I think it is very good policy, in the closing hours of the session, to take the stand which I have suggested.

Mr. CASE. Mr. President, will the Senator from Oregon yield?

Mr. MORSE. I yield.

Mr. CASE. Is it not true that this bill would deal only with a segment of the problem, namely, property transferred from Government corporations, and would not reach the whole field of federally owned real estate, much of which is acquired by purchase or condemnation?

Mr. MORSE. The answer is that I do not know. That is one of the reasons why I think we should have a debate on the bill rather than try to handle the subject on a calendar call within 5 minutes.

Mrs. SMITH of Maine. Mr. President, will the Senator from Oregon yield?

Mr. MORSE. I yield.

Mrs. SMITH of Maine. The Senator from South Dakota that he is correct in his explanation of the bill.

Mr. MORSE. Mr. President, I object. The PRESIDING OFFICER. The bill will be passed over.

TRUST ASSOCIATION OF H. KEMPNER—BILL PLACED AT FOOT OF CALENDAR

The bill (H. R. 951) for the relief of the trust association of H. Kempner was announced as next in order.

Mr. COOPER. Mr. President, I ask unanimous consent that this bill be passed to the foot of the calendar.

The PRESIDING OFFICER. Without objection the bill will be placed at the foot of the calendar.

BILLS PASSED OVER

The bill (S. 3423) to amend the Trading With the Enemy Act was announced as next in order.

Mr. GORE. Over.

The PRESIDING OFFICER. The bill will be passed over.

The bill (S. 1555) to authorize the Secretary of the Interior to construct, operate, and maintain the Colorado River storage project and participating projects, and for other purposes was announced as next in order.

Mr. HENDRICKSON. Over, by request.

The PRESIDING OFFICER. The bill will be passed over.

AVAILABILITY OF CERTAIN FUNDS TO THE COMMITTEE ON GOVERNMENT OPERATIONS—RESOLUTION PASSED OVER

The resolution (S. Res. 288) to make certain funds available to the Committee on Government Operations, was announced as next in order.

Mr. McCARRAN. Over.

Mr. GORE. Mr. President, will the Senator from Nevada withhold his objection for a moment?

Mr. McCARRAN. Yes.

Mr. GORE. Mr. President, at the last call of the calendar I registered an objection to this resolution by request.

Personally, I am strongly in favor of appropriating sufficient funds for the committee to make its investigation. I want the RECORD to show that my previous objection was upon request and in performance of my duty as a member of the calendar committee, and was not a reflection of my own position with respect thereto.

Mr. McCARRAN. Over.

The PRESIDING OFFICER. The resolution will be passed over.

BILL PASSED OVER

The bill (H. R. 5407) to amend sec. 2879 (b) of the Internal Revenue Code was announced as next in order.

Mr. HENDRICKSON. Over.

Mr. COOPER. Mr. President, I ask unanimous consent that the bill be placed at the foot of the calendar.

Mr. IVES. Mr. President, I object. If the bill is to be considered, I have some substantial amendments to it which I should like to discuss.

The PRESIDING OFFICER. The bill will be passed over.

UNIFORM SYSTEM OF GRANTING INCENTIVE AWARDS—BILL PLACED AT FOOT OF CALENDAR

The bill (H. R. 7774) to establish a uniform system for the granting of incentive awards to officers and employees of the United States, and for other purposes, was announced as next in order.

Mr. KNOWLAND. Mr. President, reserving the right to object, I have sent

Public Law 775 - 83d Congress
Chapter 1259 - 2d Session
H. R. 5420

AN ACT

All 68 Stat. 1190.

To amend section 161, title 35, United States Code, relating to the patenting of plants.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 161, title 35, United States Code, is hereby amended to read as follows: Patents for plants.
“SEC. 161. PATENTS FOR PLANTS.—Whoever invents or discovers and asexually reproduces any distinct and new variety of plant, including cultivated sports, mutants, hybrids, and newly found seedlings, other than a tuber propagated plant or a plant found in an uncultivated state, may obtain a patent therefor, subject to the conditions and requirements of this title. 66 Stat. 804.

“The provisions of this title relating to patents for inventions shall apply to patents for plants, except as otherwise provided.”

Approved September 3, 1954.

